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DISPLAY INC.), HITACHI AMERICA, LTD.,
AND HITACHI ELECTRONIC DEVICES
(USA), INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Case No. Master File No. 3:07-cv-05944-SC
MDL NO. 1917

This Document Relates to:

All Indirect Purchaser Actions

Electrograph Systems, Inc., et al. v. Hitachi, Ltd., et al., No. 3:11-cv-01656-SC;

Alfred H. Siegel as Trustee of the Circuit City Stores, Inc. Liquidating Trust v. Hitachi, Ltd., et al., No. 3:11-cv-05502-SC;

Best Buy Co., Inc., et al. v. Hitachi, Ltd., et al., No. 3:11-cv-05513-SC;

DECLARATION OF ELIOT A. ADELSON IN SUPPORT OF THE ADMINISTRATIVE MOTION TO FILE UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 79-59(d) AND 7-11 RE HITACHI PARTIES' NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT BASED UPON THE LACK OF EVIDENCE OF PARTICIPATION IN THE ALLEGED CONSPIRACY AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

1 *Target Corp, et al. v. Chunghwa Picture Tubes,*
2 *Ltd., et al.,* No. 3:11-cv-05514-SC;

3 *Sears, Roebuck and Co. and Kmart Corp. v.*
4 *Chunghwa Picture Tubes, Ltd.,* No. 3:11-cv-
5 05514-SC

6 *Interbond Corporation of America, d/b/a*
7 *BrandsMart USA v. Hitachi, et al.,*
8 No. 3:11-cv-06275-SC;

9 *Office Depot, Inc. v. Hitachi, Ltd., et al.,*
10 No. 3:11-cv-06276-SC;

11 *CompuCom Systems, Inc. v. Hitachi, Ltd.,*
12 *et al.,* No. 3:11-cv-06396-SC;

13 *Costco Wholesale Corporation v. Hitachi,*
14 *Ltd., et al.,* No. 3:11-cv-06397-SC;

15 *P.C. Richard & Son Long Island Corporation, et*
16 *al. v. Hitachi, Ltd., et al.,* No. 3:12-cv-02648-SC;

17 *Schultze Agency Services, LLC on behalf of*
18 *Tweeter OPCO, LLC and Tweeter Newco, LLC v.*
19 *Hitachi, Ltd., et al.,* No. 3:12-cv-02649-SC;

20 *Tech Data Corporation, et al. v. Hitachi,*
21 *Ltd., et al.,* No. 3:13-cv-00157-SC

1 I, Eliot A. Adelson, declare as follows:

2 1. I am an attorney licensed to practice in the State of California and the Northern
3 District of California. I am a partner with the firm of Kirkland & Ellis LLP, and counsel for Hitachi
4 America, Ltd., Hitachi Displays, Ltd. (n/k/a Japan Display Inc.), and Hitachi Electronic Devices
5 (USA), Inc. (collectively, the “Hitachi Parties”). Except for those matters stated on information and
6 belief, about which I am informed and which I believe to be true, I have personal knowledge of the
7 facts stated herein and, if called as a witness, I could and would competently testify thereto.

8 2. I submit this declaration in support of Hitachi Parties’ Administrative Motion to File
9 Under Seal Pursuant to Civil Local Rules 79-5(d) and 7-11. I make this declaration pursuant to Civil
10 Local Rule 79-5(d) to establish that certain documents containing Confidential and Highly
11 Confidential information and submitted to the Court in connection with the Hitachi Parties’ Notice
12 of Motion and Motion for Summary Judgment Based Upon the Lack of Evidence of Participation in
13 the Alleged Conspiracy and Memorandum of Points and Authorities in Support Thereof (“Non-
14 Participation Motion”) are sealable.

15 3. On June 18, 2008, the Court approved a “Stipulated Protective Order” in this matter
16 (Dkt. 306). On November 7, 2014, the Hitachi Parties filed an Administrative Motion to Seal, and
17 lodged conditionally under seal, the following documents, or portions thereof, pursuant to Civil
18 Local Rules 7-11 and 79-5(d):

- 19 a. Portions of the Non-Participation Motion that contain quotations or information from
20 documents and/or deposition testimony that certain Plaintiffs and Defendants have
21 designated “Confidential” or “Highly Confidential”; and
22 b. Exhibits 2, 4, 6, 9, 10, and 12-15 attached to the Declaration of Eliot Adelson in
23 Support of the Hitachi Parties’ Notice of Motion and Motion for Summary Judgment
24 Based Upon the Lack of Evidence Supporting Participation in the Alleged Conspiracy
25 and Memorandum of Points and Authorities in Support Thereof (“Adelson
26 Declaration”) which quote from, summarize, or are documents or deposition
27 testimony that the Hitachi Parties have designated “Confidential” or “Highly
28 Confidential.”

1 4. Pursuant to Civil Local Rule 79-5(d), I make this declaration on behalf of the Hitachi
2 Parties to provide the basis for the Court to maintain under seal certain documents and information
3 designated by the Hitachi Parties as “Confidential” or “Highly Confidential” pursuant to the
4 Stipulated Protective Order, and all references to those documents and information in the Non-
5 Participation Motion.

6 5. Exhibit 2 to the Adelson Declaration is a true and correct copy of excerpts from the
7 Expert Report of Vandy Howell, Ph.D. dated April 15, 2014, designated by Hitachi Parties as
8 “Highly Confidential.”

9 6. Exhibit 4 to the Adelson Declaration is a true and correct copy of excerpts from the
10 deposition of Michael Whinston, taken on September 17, 2014, designated by Hitachi Parties as
11 “Confidential.”

12 7. Exhibit 6 to the Adelson Declaration is a true and correct copy of excerpts from the
13 deposition of L. Thomas Heiser, taken on July 3, 2012, designated by Hitachi Parties as “Highly
14 Confidential.”

15 8. Exhibit 9 to the Adelson Declaration is a true and correct copy of excerpts from the
16 deposition of Noboru Toyama, taken on March 11, 2014, designated by Hitachi Parties as “Highly
17 Confidential.”

18 9. Exhibit 10 to the Adelson Declaration is a true and correct copy of excerpts from the
19 deposition of Kenichi Hazuku, taken on June 12, 2013, designated by Hitachi Parties as “Highly
20 Confidential.”

21 10. Exhibit 12 to the Adelson Declaration is a true and correct copy of excerpts from the
22 deposition of Thomas Schmitt, taken on July 11, 2013, designated by Hitachi Parties as “Highly
23 Confidential.”

24 11. Exhibit 13 to the Adelson Declaration is a true and correct copy of an email from
25 Noboru Toyama sent on May 24, 2001 with document identification numbers HDP-CRT00023501 -
26 HDP-CRT00023503, designated by Hitachi Parties as “Confidential.”

27 12. Exhibit 14 to the Adelson Declaration is a true and correct copy of an email from Biff
28 Kinney sent on October 19, 2000 with document identification numbers HEDUS-CRT00181624 -

1 HEDUS-CRT00181625, designated by Hitachi Parties as “Highly Confidential.”

2 13. Exhibit 15 to the Adelson Declaration is a true and correct copy of excerpts from the
3 deposition of Yasu Hisa Takeda, taken on July 12, 2012, designated by Hitachi Parties as “Highly
4 Confidential.”

5 14. Upon information and belief, the documents contained in Exhibits 2, 4, 6, 9, 10, and
6 12 through 15 contain confidential, nonpublic, proprietary and highly sensitive business information
7 about the Hitachi Parties’ sales processes, business practices, internal practices, negotiating tactics,
8 confidential business and supply agreements and/or competitive positions. These documents
9 describe relationships with companies that remain important to the Hitachi Parties’ competitive
10 position. I am informed and believe that this is sensitive information and public disclosure of this
11 information presents a risk of undermining the Hitachi Parties’ business relationships, would cause it
12 harm with respect to its competitors and customers, and would put the Hitachi Parties at a
13 competitive disadvantage.

14 15. The highlighted portions of the Non-Participation Motion quote from, describe, or
15 contain documents or information designated as “Confidential” or “Highly Confidential” by the
16 Hitachi Parties pursuant to the Stipulated Protective Order, including Exhibits 2, 4, 6, 9, 10, and 12
17 through 15 to the Adelson Declaration. I understand that the Hitachi Parties consider any statements
18 in the Non-Participation Motion purporting to summarize the exhibits or any other documents or
19 information designated as “Confidential” or “Highly Confidential” by the Hitachi Parties
20 confidential and proprietary. I am informed and believe that the Hitachi Parties have taken
21 reasonable steps to preserve the confidentiality of information of the type contained, identified, or
22 cited to in Exhibits 2, 4, 6, 9, 10, and 12 through 15, and referenced in the Non-Participation Motion.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

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4 DATED: November 7, 2014

By: /s/ Eliot A. Adelson

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